

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

|                        |   |                        |
|------------------------|---|------------------------|
| MICHAEL H. SIMMONS,    | ) | C.A. No. 0:04-23249-25 |
|                        | ) |                        |
| Plaintiff,             | ) |                        |
|                        | ) |                        |
| vs.                    | ) | <b>ORDER</b>           |
|                        | ) |                        |
| JO ANNE B. BARNHART,   | ) |                        |
| COMMISSIONER OF SOCIAL | ) |                        |
| SECURITY,              | ) |                        |
|                        | ) |                        |
| Defendant.             | ) |                        |
|                        | ) |                        |
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|                        | ) |                        |

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In this case, the plaintiff seeks judicial review of the final decision of the Commissioner denying his application for social security disability insurance benefits. The plaintiff alleges disability commencing June 28, 2002, due to back problems.

This matter now comes before the undersigned for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge Bristow Marchant, to whom this case had previously been assigned. In his Report, Magistrate Judge Marchant recommends that the defendant Commissioner’s decision denying the plaintiff’s application for benefits be affirmed. As reasoned by the Magistrate Judge:

...the record contains substantial evidence to support the conclusion of the Commissioner that the plaintiff was not disabled within the meaning of the Social Security Act during the relevant time period.

The plaintiff has filed objections to the Magistrate Judge’s Report.

In conducting its review of the Magistrate Judge's Report, this Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections...The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992)

(citations omitted). In light of this standard, the Court has reviewed, *de novo*, the Report and the objections thereto. The Court accepts the Report.

Therefore, **IT IS HEREBY ORDERED** that the Report is **ACCEPTED**, plaintiff's objections are **OVERRULED**, and the defendant's decision denying the plaintiff's application for benefits is **AFFIRMED**.

**IT IS SO ORDERED.**

s/ Terry L. Wooten  
Terry L. Wooten  
United States District Court Judge

February 16, 2006  
Florence, South Carolina